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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.                | CONFIRMATION NO. |
| 10/531,251  | 10/07/2005  | Bruce H Bersted      | 270153US55XPCT                     | 4877             |
| 22850 7590 07/18/2008<br>OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.<br>1940 DUKE STREET<br>ALEXANDRIA, VA 22314 |             |                      | EXAMINER<br>WOODWARD, ANA LUCRECIA |                  |
|   |             |                      | ART UNIT                           | PAPER NUMBER     |
|   |             |                      | 1796                               |                  |
|   |             |                      | NOTIFICATION DATE                  | DELIVERY MODE    |
|   |             |                      | 07/18/2008                         | ELECTRONIC       |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
oblonpat@oblon.com  
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|                              |                                      |                                       |  |
|------------------------------|--------------------------------------|---------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/531,251 | <b>Applicant(s)</b><br>BERSTED ET AL. |  |
|                              | <b>Examiner</b><br>Ana L. Woodward   | <b>Art Unit</b><br>1796               |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 04/12/2005, 06/13/2005, 09/10/2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 22-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06/13/05, 09/10/07</u> .                                      | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. Claims 22-43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear as to whether the recited amounts are based on total compositional weight or solely on the total weight sum of the recited materials.

In claim 26, there is no express antecedent basis in claim 24 for the aromatic "polyphthalamide". Furthermore, it is unclear if or how said polyphthalamide can be derived from an aliphatic, as opposed to a phthalic, dicarboxylic acid.

In claim 27, the lower limit defined by "up to" qualifying the black pigment encompasses zero weight %. Accordingly, it is unclear as to whether or not said black pigment is a required material.

In claim 32, the lower limit defined by "up to" qualifying the white pigment encompasses zero weight %. Accordingly, it is unclear as to whether or not said white pigment is a required material.

In claim 35, the lower limit defined by "up to" qualifying the polycondensation polymer encompasses zero weight %. Accordingly, it is unclear as to whether or not said polycondensation polymer is a required material.

### ***Claim Rejections - 35 USC § 102/103***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 22-24, 27, 29-36, 39, 40 and 42 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. 6,355,723 (van Baal et al).

van Baal et al disclose molded articles from a composition comprising an amorphous thermoplastic polymer or thermoplastic polymer blend having a glass transition temperature greater than about 170 C and at least one thermally stable colorant. Suitable thermoplastic polymers include polymer species falling within the scope of applicants' polycondensation polymer (column 2, lines 33-38, claims, etc.). Suitable colorants include materials falling within the scope of applicants' white and black pigments (column 2, line 53 - column 3, line 33).

The reference exemplifies various compositions meeting the requirements of the above-rejected claims both in terms of the types of materials added and their contents (Table 1, in particular samples F-I). It is reasonably believed that the thermoplastic polymers of the reference would inherently meet the heat deflection temperature requirement governing the presently claimed polycondensation polymer given their chemical similarity. The onus is shifted

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to applicants to establish that the product of the present claims is not the same as or obvious from those set forth by the reference.

Claim 24 has been incorporated into this rejection because it is reasonably believed that an at least partially aromatic polyamide is immediately envisaged as the amorphous polyamide included in patentees' thermoplastic polymer grouping.

***Claim Rejections - 35 USC § 103***

5. Claims 25, 26, 28, 37, 38, 41 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 6,355,723 (van Baal et al) in view of U.S. 5,391,640 (Akkapeddi et al).

van Baal et al differs in essence from the above-rejected claims in not expressly exemplifying applicants' specifically claimed partially aromatic polyamides. It is maintained that van Baal et al's general disclosure with respect to the amorphous polyamide material necessarily encompasses said specifically claimed aromatic polyamides. In this regard, attention is directed to the conventional amorphous polyamides disclosed by Akkapeddi et al, formed from terephthalic acid and aliphatic diamine or aliphatic dicarboxylic acid and aromatic diamine. Accordingly, since applicants' specifically claimed partially aromatic polyamides constitute conventional aromatic polyamide materials, as per Akkapeddi et al, their use in the composition of van Baal et al would have been palpably obvious to one having ordinary skill in the art, absent evidence of unusual or unexpected results.

***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ana L. Woodward whose telephone number is (571) 272-1082. The examiner can normally be reached on Monday-Friday (8:30-5:00).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on (571) 272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ana L. Woodward/  
Primary Examiner  
Art Unit 1796